

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 8, 2008**

**MISC. ORDER 2008-016**

BY THE COURT:

Associate Justice Vance W. Raye is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on December 10, 2008, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

**C052538      GONZALEZ v. BEYER, PONGRATZ      (Not For Publication)  
                 & ROSEN et al.**

The judgment is affirmed. Defendants shall recover costs on appeal.

RAYE, J.

We Concur:    Blease, Acting P.J.

Sims, J.

**C058540      In re OBED P.; THE PEOPLE v.      (Not For Publication)  
                 OBED P.**

The judgment is affirmed.

RAYE, J.

We Concur:    Scotland, P.J.

Robie, J.

**C059877      R.C. v. THE SUPERIOR COURT OF      (Not For Publication)  
                 SUTTER COUNTY; DEPARTMENT  
                 OF HUMAN SERVICES et al.**

The petition is denied.

SCOTLAND, P.J.

We Concur:    Raye, J.

Robie, J.

**December 9, 2008**

**C055092      THE PEOPLE v.      (Not For Publication)  
                 ALLEN DESHAUN FAIRMAN**

The judgment is affirmed.

MORRISON, J.

We Concur:    Blease, Acting P.J.

Sims, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 9, 2008, Continued**

**C058035      THE PEOPLE v.      (Not For Publication)**  
**GREGORY DEAN WRIGHT**  
The judgment is affirmed. The abstract of judgment shall be amended to reflect that the incarceration period imposed for each subordinate term represents a sentence of one-third the midterm on each count. A copy of the amended abstract of judgment shall be forwarded to the Department of Corrections and Rehabilitation.  
NICHOLSON, Acting P.J.  
We Concur: Morrison, J.  
Robie, J.

**C057780      A. TEICHERT & SON, INC., et al. v.      (Not For Publication)**  
**WORKERS' COMPENSATION APPEALS**  
**BOARD and BARRON**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Blease, J.  
Robie, J.

**December 10, 2008**

**C057420      THE PEOPLE v. KENNETH KNANISHU      (Not For Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We Concur: Raye, J.  
Morrison, J.

**C056433      PEBLEY v. PEBLEY      (Not For Publication)**  
The order is affirmed. Respondent shall recover her costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1).)  
SIMS, Acting P.J.  
We Concur: Raye, J.  
Morrison, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 10, 2008, Continued**

**C058894      THE FORMULA INC. v. THE SUPERIOR      (Certified For Publication)  
COURT OF MONO COUNTY; iSTAR  
FINANCIAL INC., et al.**

The alternative writ, having served its purpose, is discharged. The petition for writ of mandate is denied. The Formula shall pay the costs of the real parties in interest in this proceeding. (Cal. Rules of Court, rule 8.490 (m) (1) (A), (2).)

BUTZ, J.

We Concur: Morrison, Acting P.J.  
Cantil-Sakauye, J.

**C054634      In re RONALD SINGLER on Habeas Corpus      (Not For Publication)**

The petition for writ of habeas corpus is granted because the evidence presented at the 2006 parole hearing does not support the Board's finding that Singler was unsuitable for parole at that time. The Board is directed to hold a new hearing within 30 days of the finality of this decision and to find Singler suitable for parole, unless *new evidence* of his conduct and/or change in mental state *subsequent to the 2006 parole hearing* is introduced and is sufficient to support a finding that he currently poses an unreasonable risk of danger to society if released on parole.

SCOTLAND, P.J.

We Concur: Nicholson, J.  
Raye, J.

**December 11, 2008**

**C056061      THE PEOPLE v. DAVID JON DILLION      (Not For Publication)**

The judgment is reversed on counts 5 and 6, and affirmed in all other respects.

RAYE, Acting P.J.

We Concur: Robie, J.  
Cantil-Sakauye, J.

**C057189      THE PEOPLE v. PAUL J. POKORNEY      (Not For Publication)**

The judgment is affirmed.

NICHOLSON, J.

We Concur: Sims, Acting P.J.  
Davis, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**December 11, 2008, Continued**

**C057218      THE PEOPLE v.      (Not For Publication)  
MATTHEW AARON KILGORE**

The judgment (order revoking probation and imposing sentence) is affirmed.

SIMS, J.

We Concur:    Scotland, P.J.  
Butz, J.

**C055799      HEALTH NET OF CALIFORNIA, INC. v.      (Not For Publication)  
DEPARTMENT OF HEALTH SERVICES**

We affirm the superior court's 2004 denial of the petition for a writ of administrative mandamus insofar as it denies Health Net's claims for interest, and reverse it insofar as it denies Health Net's claim for a refund of the prepayment discounts deducted from retroactive adjustments.

We affirm the superior court's 2006 denial of the petition for a writ of administrative mandamus insofar as it denies Health Net's claim for additional compensation for its administrative costs, and reverse it insofar as it erroneously concludes the breach of contract was inconsequential.

We remand to DHS to calculate the rates for rate year 2001-2002 without imposing a mandated freeze and by applying the trend factors required by the contract.

Health Net shall recover costs on appeal.

RAYE, J.

We Concur:    Davis, Acting P.J.  
Butz, J.

**C058862      In re T.A.; SACRAMENTO COUNTY      (Not For Publication)  
DEPARTMENT OF HEALTH AND HUMAN  
SERVICES v. D.A.**

The orders of the juvenile court are affirmed.

RAYE, J.

We Concur:    Nicholson, Acting P.J.  
Butz, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 12, 2008**

<b>C055775</b>	<b>THE PEOPLE v. LARRY GALE JOHNSON</b> The judgment is affirmed. SIMS, J. We Concur: Scotland, P.J. Butz, J.	<b>(Not For Publication)</b>
<b>C056462</b>	<b>THE PEOPLE v. MALCOLM AUGUSTUS JOHNSON</b> The judgment is affirmed. SIMS, Acting P.J. We Concur: Davis, J. Hull, J.	<b>(Not For Publication)</b>
<b>C056741</b>	<b>THE PEOPLE v. MELVIN MICHAEL RASBERRY</b> The judgment is affirmed. DAVIS, Acting P.J. We Concur: Nicholson, J. Hull, J.	<b>(Not For Publication)</b>
<b>C056769</b>	<b>THE PEOPLE v. DOUGLAS CLAYTON GILBERT</b> The judgment is affirmed. DAVIS, Acting P.J. We Concur: Hull, J. Robie, J.	<b>(Not For Publication)</b>
<b>C057227</b>	<b>THE PEOPLE v. RICKY ANTHONY VILLEGAS</b> The judgment is affirmed. BUTZ, J. We Concur: Morrison, Acting P.J. Cantil-Sakauye, J.	<b>(Not For Publication)</b>
<b>C058433</b>	<b>THE PEOPLE v. SHANTE GALDON</b> The judgment is affirmed. BUTZ, J. We Concur: Scotland, P.J. Sims, J.	<b>(Not For Publication)</b>

**COURT OF APPEAL  
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**Court Minutes**

**December 12, 2008, Continued**

**C053886      HUNT v. COUNTY OF SACRAMENTO      (Not For Publication)**  
**et al.**

**C055248      HUNT v. COUNTY OF SARAMENTO**  
**et al.**

The judgment entered on July 2, 2008 nunc pro tunc to January 10, 2007, is amended to include a judgment of dismissal of defendants Anderson and the County from Hunt's first amended complaint based on the trial court's order sustaining defendants' demurrer without leave to amend to the first amended complaint.

The portion of the judgment of dismissal of the supplemental complaint based on the trial court's order sustaining defendants' demurrer without leave to amend to the slander per se, libel and invasion of privacy causes of action of his supplemental complaint. In all other respects, the judgment in favor of defendants is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (3).)

CANTIL-SAKAUYE, J.

We Concur:    Davis, Acting P.J.  
                    Nicholson, J.

**C054148      IVERS v. ALLSTATE INSURANCE      (Not For Publication)**  
**COMPANY**

The judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (5).)

HULL, J.

We Concur:    Sims, Acting P.J.  
                    Butz, J.

**C057510      In re K.M.; THE PEOPLE v. K.M.      (Not For Publication)**

The juvenile court is directed to amend its minute order of October 17, 2007, to show the robberies sustained were of the second degree. The orders continuing the minor as a ward of the juvenile court and committing him to Rite of Passage are affirmed.

SIMS, Acting P.J.

We Concur:    Hull, J.  
                    Cantil-Sakauye, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 12, 2008, Continued**

**C050441      THE PEOPLE v. BOBBY CHIU et al.**

BY THE COURT:

Appellant Tony Hoong's petition for rehearing is denied.

BLEASE, Acting P.J.

**C050441      THE PEOPLE v. BOBBY CHIU et al.**

**(Not For Publication)**

THE COURT:

It is ordered that the opinion filed herein on November 12, 2008, be modified...

This modification does not change the judgment.

Respondent's petition for rehearing is denied.

BY THE COURT:

BLEASE, Acting P.J.

Davis, J.

Hull, J.

**C056099      In re CLARENCE BURDAN on Habeas Corpus      (Certified For Publication)**

The petition for writ of habeas corpus is granted. The Governor's decision reversing the Board's grant of parole is vacated and the Board's decision is reinstated.

HULL, J.

We Concur:      Blease, Acting P.J.

Robie, J.